

## Department of Veterans Affairs

## § 14.628

21-22, "Appointment of Veterans Service Organization as Claimant's Representative," or VA Form 21-22a, "Appointment of Individual as Claimant's Representative."

(n) *Representative* means a person who has been recommended by a recognized organization and accredited by VA.

(o) *Service* means the delivery of a motion, response, or reply to a person or entity to which it is directed. Proof of service consists of a statement by the person who made service certifying the date and manner of service, the names of the persons served, and the addresses of the place of delivery. For service by mail, proof of service shall include the date and manner by which the document was mailed.

(p) *State* includes any State, possession, territory, or Commonwealth of the United States, and the District of Columbia.

(q) *Suspension* means temporary withholding of authority to represent claimants.

(Authority: 38 U.S.C. 501(a), 5902, 5903, 5904)

[53 FR 52419, Dec. 28, 1988, as amended at 68 FR 8544, Feb. 24, 2003; 73 FR 29870, May 22, 2008]

### § 14.628 Recognition of organizations.

Authorized officers of an organization may request recognition by letter to the Secretary of Veterans Affairs.

(a) *National organization*. An organization may be recognized as a national organization if:

(1) It was recognized by the Department of Veterans Affairs prior to October 10, 1978, and continues to satisfy the requirements of §14.628(d) of this section, or

(2) It satisfies the following requirements:

(i) Requirements set forth in paragraph (d) of this section, including information required to be submitted under that paragraph;

(ii) In the case of a membership organization, membership of 2,000 or more persons, as certified by the head of the organization;

(iii) Capability and resources to provide representation to a sizable number of claimants;

(iv) Capability to represent claimants before the Board of Veterans' Appeals in Washington, D.C.; and

(v) Geographic diversification, *i.e.*, either one or more posts, chapters, or offices in at least ten states, or one or more members in at least twenty states.

(b) *State organization*. An organization created and primarily funded by a State government for the purpose of serving the needs of veterans of that State may be recognized. Only one such organization may be recognized in each State.

(c) *Regional or local organization*. An organization other than a State or national organization as set forth in paragraphs (a) and (b) of this section may be recognized when the Department of Veterans Affairs has determined that it is a veterans' service organization primarily involved in delivering services connected with either title 38 U.S.C., benefits and programs or other Federal and State programs designed to assist veterans. The term *veteran* as used in this paragraph shall include veterans, former armed forces personnel, and the dependents or survivors of either. Further, the organization shall provide responsible, qualified representation in the preparation, presentation, and prosecution of claims for title 38 U.S.C., benefits.

(d) *Requirements for recognition*. (1) In order to be recognized under this section, an organization shall meet the following requirements:

(i) Have as a primary purpose serving veterans. In establishing that it meets this requirement, an organization requesting recognition shall submit a statement establishing the purpose of the organization and that veterans would benefit by recognition of the organization.

(ii) Demonstrate a substantial service commitment to veterans either by showing a sizable organizational membership or by showing performance of veterans' services to a sizable number of veterans. In establishing that it meets this requirement, an organization requesting recognition shall submit:

(A) The number of members and number of posts, chapters, or offices and their addresses;

(B) A copy of the articles of incorporation, constitution, charter, and by-laws of the organization, as appropriate;

(C) A description of the services performed or to be performed in connection with programs administered by the Department of Veterans Affairs, with an approximation of the number of veterans, survivors, and dependents served or to be served by the organization in each type of service designated; and

(D) A description of the type of services, if any, performed in connection with other Federal and State programs which are designed to assist former Armed Forces personnel and their dependents, with an approximation of the number of veterans, survivors, and dependents served by the organization under each program designated.

(iii) Commit a significant portion of its assets to veterans' services and have adequate funding to properly perform those services. In establishing that it meets this requirement, an organization requesting recognition shall submit:

(A) A copy of the last financial statement of the organization indicating the amount of funds allocated for conducting particular veterans' services (VA may, in cases where it deems necessary, require an audited financial statement); and

(B) A statement indicating that use of the organization's funding is not subject to limitations imposed under any Federal grant or law which would prevent it from representing claimants before the Department of Veterans Affairs.

(iv) Maintain a policy and capability of providing complete claims service to each claimant requesting representation or give written notice of any limitation in its claims service with advice concerning the availability of alternative sources of claims service. Except as provided in paragraphs (d)(1)(iv)(A) and (B) of this section, in establishing that it meets this requirement, an organization requesting recognition shall submit evidence of its capability to represent claimants before Department of Veterans Affairs regional offices and before the Board of Veterans' Appeals.

(A) If an organization does not intend to represent claimants before the Board of Veterans' Appeals, the organization shall submit evidence of an association or agreement with a recognized service organization for the purpose of representation before the Board of Veterans' Appeals, or the proposed method of informing claimants of the limitations in service that can be provided, with advice concerning the availability of alternative sources of claims service.

(B) If an organization does not intend to represent each claimant requesting assistance, the organization shall submit a statement of its policy concerning the selection of claimants and the proposed method of informing claimants of this policy, with advice concerning the availability of alternative sources of claims service.

NOTE TO PARAGRAPH (d)(1)(iv): An organization may be considered to provide complete claims service notwithstanding the exercise of discretion to determine that provision of representation in a particular case is impracticable or inappropriate because, under the circumstances, the facts or law do not support the filing of a claim or appeal, an appropriate representative-claimant relationship cannot be maintained, or representation would give rise to a conflict of interest on the part of the organization.

(v) Take affirmative action, including training and monitoring of accredited representatives, to ensure proper handling of claims. In establishing that it meets this requirement, an organization requesting recognition shall submit:

(A) A statement of the skills, training, and other qualifications of current paid or volunteer staff personnel for handling veterans' claims; and

(B) A plan for recruiting and training qualified claim representatives, including the number of hours of formal classroom instruction, the subjects to be taught, the period of on-the-job training, a schedule or timetable for training, the projected number of trainees for the first year, and the name(s) and qualifications of the individual(s) primarily responsible for the training.

(2) In addition, the organization requesting recognition shall supply:

(i) A statement that neither the organization nor its accredited representatives will charge or accept a fee or gratuity for service to a claimant and that the organization will not represent to the public that Department of Veterans Affairs recognition of the organization is for any purpose other than claimant representation; and

(ii) The names, titles, and addresses of officers and the official(s) authorized to certify representatives.

(e) *Recognition or denial.* Only the Secretary is authorized to recognize organizations. Notice of the Secretary's determination on a request for recognition will be sent to an organization within 90 days of receipt of all information to be supplied.

(f) *Requests for further information.* The Secretary or the Secretary's designee may request further information from any recognized organization, including progress reports, updates, or verifications.

(Authority: 38 U.S.C. 501(a), 5902)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0439)

[53 FR 52419, Dec. 28, 1988, as amended at 57 FR 33878, July 31, 1992; 68 FR 8544, Feb. 24, 2003]

**§ 14.629 Requirements for accreditation of service organization representatives; agents; and attorneys.**

The Assistant General Counsel of jurisdiction or his or her designee will conduct an inquiry and make an initial determination regarding any question relating to the qualifications of a prospective service organization representative, agent, or attorney. If the Assistant General Counsel or designee determines that the prospective service organization representative, agent, or attorney meets the requirements for accreditation in paragraphs (a) or (b) of this section, notification of accreditation will be issued by the Assistant General Counsel or the Assistant General Counsel's designee and will constitute authority to prepare, present, and prosecute claims before an agency of original jurisdiction or the Board of Veterans' Appeals. If the Assistant General Counsel determines that the prospective representative, agent, or

attorney does not meet the requirements for accreditation, notification will be issued by the Assistant General Counsel concerning the reasons for disapproval, an opportunity to submit additional information, and any restrictions on further application for accreditation. If an applicant submits additional evidence, the Assistant General Counsel will consider such evidence and provide further notice concerning his or her final decision. The determination of the Assistant General Counsel regarding the qualifications of a prospective service organization representative, agent, or attorney may be appealed by the applicant to the General Counsel. Appeals must be in writing and filed with the Office of the General Counsel (022D), 810 Vermont Avenue, NW., Washington, DC 20420, not later than 30 days from the date on which the Assistant General Counsel's decision was mailed. In deciding the appeal, the General Counsel's decision shall be limited to the evidence of record before the Assistant General Counsel. A decision of the General Counsel is a final agency action for purposes of review under the Administrative Procedure Act, 5 U.S.C. 701-706.

(a) *Service Organization Representatives.* A recognized organization shall file with the Office of the General Counsel VA Form 21 (Application for Accreditation as Service Organization Representative) for each person it desires accredited as a representative of that organization. The form must be signed by the prospective representative and the organization's certifying official. For each of its accredited representatives, a recognized organization's certifying official shall complete, sign and file with the Office of the General Counsel, not later than five years after initial accreditation through that organization or the most recent recertification by that organization, VA Form 21 to certify that the representative continues to meet the criteria for accreditation specified in paragraph (a)(1), (2) and (3) of this section. In recommending a person, the organization shall certify that the designee:

(1) Is of good character and reputation and has demonstrated an ability to represent claimants before the VA;